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Department of the Treasury
Internal Revenue Service

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GOVERNMENT DOCUMENTS

Instructions for Form 8027

Employer's Annual Information Return of Tip Income and Allocated Tips

General Instructions

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

The time needed to complete and file these forms will vary depending on individual circumstances. The estimated average times are:

Forms	8027	8027-T
Recordkeeping	5 hrs., 16 min.	43 min.
Learning about the law or the form	35 min.	22 min.
Preparing and sending the form to IRS	43 min.	1 hr., 36 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, TR:FP; or the **Office of Management and Budget**, Paperwork Reduction Project, Washington, DC 20503.

Reporting on Magnetic Media.— Employers who file 250 or more Forms 8027 must file the returns on magnetic media. For details, see regulations section 301.6011-2. Revenue Procedure 86-31, 1986-1 C.B. 681 has information on how to request a waiver from magnetic media reporting because of undue hardship.

Purpose of Form.—Form 8027 is used by large food or beverage establishments when required to make to the Internal Revenue Service annual reports on receipts from food or beverage operations and tips reported by employees.

Who Must File.—Every employer must file a separate Form 8027 each year for each large food or beverage establishment. A large food or beverage establishment is an establishment where tipping is customary and that normally employed more than 10 employees (counting all the employer's employees at all locations) on a typical business day during the preceding calendar year. An individual who owns 50% or more in value of the stock of a corporation operating the establishment is not considered an employee in determining whether the establishment normally employed more than 10 employees.

An employer must file Form 8027 for a new large food or beverage establishment if during any 2 consecutive calendar months the average number of hours worked each business day by all employees at the new business is more than 80 hours. To figure the average number of employee hours worked each business day during a month, divide the total hours all employees worked during the month by the number of days the establishment was open for business. After the test is met for 2 consecutive months, a return is required covering the first payroll period that begins at that point and runs to the end of the year.

Note: *A payroll period may be a calendar year or any reasonable divison of a calendar year.*

A return is required only for establishments in the 50 states and the District of Columbia. A return is not required for establishments operated for less than 1 month in any calendar year.

Since tipping is not customary at cafeterias or fast food operations, a return is not required for these establishments.

When To File.—File Form 8027 by February 28, 1989. (Also file **Form 8027-T,** Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips, if you are required to report for more than one establishment.)

Where To File.—File with the Internal Revenue Service Center, Andover, MA 05501.

Period Covered.—The period covered is for a calendar year. The employer must report for the calendar year the:

- Total charged tips,
- Total charged receipts on which there were charged tips,
- Total amount of service charges of less than 10% paid as wages to employees,
- Total tips reported by employees,
- Gross receipts from food or beverage operations, and
- Total allocated tips to employees if total amount of reported tips is less than 8% of gross receipts.

Penalties.—The following penalties may apply to employers required to file Forms 8027, 8027-T, and **W-2,** Wage and Tax Statement. They may also apply to paper filers as well as magnetic media filers. The maximum amounts of the penalties are $100,000 per calendar year unless otherwise noted. The penalties will apply unless the failures were due to reasonable cause and not due to willful neglect.

(1) A penalty of $50 per failure may apply to :

- Each failure to timely file an information return including failure to file on magnetic media if required.
- Each failure to furnish the employee's TIN (usually the social security number) on Form W-2.
- Each failure to furnish a Form W-2 to the employee.

(2) A penalty of $5 per failure may apply to :

- Each failure by the employer to include his or her TIN (taxpayer identification number, usually the employer identification number) on any return, statement, or document.
- Each failure to include correct information on a return or statement. This penalty applies to the omission of information as well as the inclusion of incorrect information. The maximum penalty is $20,000. However, the penalty does not apply if a penalty for failure to supply a correct TIN has been imposed under item 1 above.

Allocation of Tips.—An employer must allocate tips among employees who receive tips only if the total tips reported to the employer during any payroll period are less than 8% of the employer's gross receipts for that period. The amount allocated is for information purposes only, and employers should not withhold income or social security taxes on that amount. See **Pub. 539,** Employment Taxes, for more information.

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Generally, the amount allocated is the difference between the total tips reported by employees and 8% of the **gross receipts,** other than nonallocable receipts. Nonallocable receipts are receipts for carryout sales and receipts with a service charge added of 10% or more.

The method of allocating tips based on the **number** of **hours worked** by directly tipped employees is restricted. Only establishments employing fewer than the equivalent of 25 full-time employees during a payroll period may use the hours worked method. The hours worked method of allocating is explained on page 2 in step (3) and in regulations section 31.6053-3(f)(1)(iv). An employer will be considered to have employed fewer than the equivalent of 25 full-time employees during a payroll period if the average number of employee hours worked per business day during a payroll period is less than 200 hours. See regulations section 31.6053-3(j)(19).

An allocation can be made under a **good faith agreement.** A good faith agreement is a written agreement between the employer and at least two-thirds of the employees of each occupational category of employees who receive tips (e.g., waiters and waitresses, busboys, maitre d's) working in the establishment when the agreement is adopted. The agreement must:

(a) Provide for an allocation of the difference between total tips reported and 8% of gross receipts among employees who receive tips that approximates the actual distribution of tip income among the employees;

(b) Be effective with the first day of a payroll period that begins after the date of adoption, but no later than January 1 of the next year;

(c) Be adopted when there are employees in each occupational category who would be affected by the agreement; AND

(d) Allow for revocation by a written agreement adopted by at least two-thirds of the employees in occupational categories affected by the agreement when it is revoked. The revocation is effective only at the beginning of a payroll period.

If no good faith agreement applies to the payroll period, the employer must allocate the difference between total tips reported and 8% of gross receipts using the following **steps:**

(1) Multiply the establishment's gross receipts (other than receipts for carryout sales and receipts with a service charge added of 10% or more) for the payroll period by 8% (.08).

(2) Subtract from this the total amount of tips reported by employees who were tipped indirectly for the payroll period. This difference is the directly tipped employees' total share of 8% of the gross receipts of the establishment. Indirectly tipped employees do not receive tips directly from customers. Examples are busboys, service bartenders, and cooks. Directly tipped employees, such as waiters, waitresses, and bartenders, receive tips directly from customers. Employees who receive tips directly from customers and indirectly through tip splitting or pooling, such as maitre d's, are treated as directly tipped employees.

(3) For each employee who is tipped directly, multiply the result in step (2) by the following fraction: the numerator (top number) is the amount of the establishment's gross receipts attributable to the employee, and the denominator (bottom number) is the gross receipts attributable to all employees who are directly tipped. This result is each directly tipped employee's share of 8% of the gross receipts for the payroll period.

If the establishment employed fewer than the equivalent of 25 full-time employees in any pay period, the allocation of tips for that period can be based on the number of hours worked by directly tipped employees. The fraction described above would be substituted with the number of hours worked by each employee who is tipped directly and the total number of hours worked by all employees who are directly tipped for the payroll period.

(4) From each directly tipped employee's share of 8% of the gross receipts figured above, subtract the tips that employee reported for the payroll period. The result is each directly tipped employee's shortfall (if any) for the period.

(5) From the amount figured in step (1) (8% of the gross receipts), subtract the total tips reported by both directly and indirectly tipped employees. The result is the amount that has to be allocated among the directly tipped employees who had a shortfall for the payroll period as figured in step (4).

(6) For each directly tipped employee who had a shortfall for the period as figured in step (4), multiply the amount in step (5) by the following fraction: the numerator is the employee's shortfall (figured in step (4)), and the denominator is the total shortfall of all directly tipped employees. The result is the amount of allocated tips for each directly tipped employee.

Example: A large food or beverage establishment has gross receipts for a payroll period of $100,000 and has tips reported for the payroll period of $6,200. Directly tipped employees reported $5,700, while indirectly tipped employees reported $500.

Directly tipped employees	Gross receipts for payroll period	Tips reported
A	$18,000	$1,080
B	16,000	880
C	23,000	1,810
D	17,000	800
E	12,000	450
F	14,000	680
	$100,000	$5,700

The allocation, figured using steps (1) through (6), would be as follows:

(1) $100,000 (gross receipts) × .08 = $8,000

(2) $8,000 − $500 (tips reported by indirectly tipped employees) = $7,500

(3)

Directly tipped employees	Directly tipped employees' share of 8% of the gross		Gross receipts ratio		Employee's share of 8% of gross
A	$7,500	×	18,000/100,000	=	$1,350
B	7,500	×	16,000/100,000	=	1,200
C	7,500	×	23,000/100,000	=	1,725
D	7,500	×	17,000/100,000	=	1,275
E	7,500	×	12,000/100,000	=	900
F	7,500	×	14,000/100,000	=	1,050
					$7,500

(4)

Directly tipped employees	Employee's share of 8% of the gross		Tips reported		Employee shortfall
A	$1,350	−	$1,080	=	$270
B	1,200	−	880	=	320
C	1,725	−	1,810	=	—
D	1,275	−	800	=	475
E	900	−	450	=	450
F	1,050	−	680	=	370
				Total shortfall	$1,885

(5) $8,000 − $6,200 (total tips reported) = $1,800 (amount allocable among employees who had a shortfall)

(6)

Shortfall employees	Allocable amount		Shortfall ratio		Amount of allocation
A	$1,800	×	270/1,885	=	$258
B	1,800	×	320/1,885	=	306
D	1,800	×	475/1,885	=	454
E	1,800	×	450/1,885	=	430
F	1,800	×	370/1,885	=	353

Since employee C has no shortfall, there is no allocation to C.

Note: *The total amount of allocation is $1,801 because of rounding to whole numbers in this example.*

If employers who make allocations among employees follow a good faith agreement or the method described above, they are not liable to any employee if any amount is improperly allocated. However, if the allocation shown on the employee's Form W-2 varies from the correct allocation by more than 5%, the employer must adjust that employee's allocation and must review the allocable amount of all other employees in the same establishment to assure that the error did not distort any other employee's share by more than 5%. Use **Form W-2c**, Statement of Corrected Income and Tax Amounts, to report the corrected allocation. Tip allocations have no effect on withholding income or social security tax from employees' wages. Allocated tips are not subject to withholding and are not to be included in box 10, Wages, tips, and other compensation, of Form W-2.

You do not have to send to IRS separate copies of Forms W-2 showing allocated tips. IRS will use the information shown on the Forms W-2 that you file with the Social Security Data Operations Center.

Reporting Allocated Tips to Employees.—Give each employee who has been allocated tips a Form W-2 that shows the allocated amount in box 6. Give the W-2 to the employee no later than January 31 of the following year. If employment ends before the end of the year and the employee asks for the W-2, a tip allocation is not required on the early W-2. However, the employer may include on the early W-2 the employee's actual tip allocation or a good faith estimate of the allocation. Signify a good faith estimate by putting the word "estimate" next to the allocated amount in box 6 of the W-2. If no allocation was shown on the early W-2 or if the estimated allocation on the early W-2 varies from the actual amount by more than 5%, give the employee a Form W-2c during January of the next year.

Specific Instructions

File a separate Form 8027 for each large food or beverage establishment.

Name and address of establishment and employer identification number (EIN).—Please use the label provided. Make any corrections on the label. If you do not have one, please type or print the name and address of the establishment. They may be different from the employer's name and address, as in the case of employers who have more than one establishment. The employer identification number should be the same as the number used by the employer on the Forms W-2 given to the employees and the Form 941 or Form 941E the employer files reporting wages and taxes for employees working for the establishment.

Kind of establishment.—Check only one box. Check the box on the form that describes the food or beverage operation at this establishment as described below:

- 1—an establishment that serves evening meals only (with or without alcoholic beverages).
- 2—an establishment that serves evening and other meals (with or without alcoholic beverages).
- 3—an establishment that serves only meals other than evening meals (with or without alcoholic beverages).
- 4—an establishment that serves food, if at all, only as an incidental part of the business of serving alcoholic beverages.

Employer's name and address.—Enter the name and address of the employer.

Establishment number.—Enter a five-digit number to identify the individual establishments of an employer reporting under the same EIN. Number the various establishments each with a unique number. For example, each establishment could be numbered consecutively, starting with 00001, until each establishment for which the employer is required to file a return has a number.

Line-by-Line Instructions

Line 1—Total charged tips for 1988.—Write the total amount of tips that are shown on charge receipts for the year.

Line 2—Total charged receipts on which there were charged tips.—Show the total sales (other than carryout sales or sales with an added service charge of 10% or more) from charge receipts that had a charged tip shown. Include credit card charges and other credit arrangements and charges to a hotel room unless the employer's normal accounting practice consistently excludes charges to a hotel room. Do not include any state or local taxes in the amounts reported.

Line 3—Total service charges of less than 10% paid as wages to employees.—Report the total amount of service charges of less than 10% that have been added to customers' bills and have been distributed to your employees for the year. In general, service charges added to the bill are not tips since the customer does not have a choice. These service charges are treated as wages and are includible on Form W-2. For a more detailed explanation, see Revenue Ruling 69-28, 1969-1 C.B. 270.

Line 4a—Total tips reported by indirectly tipped employees.—Use line 4a to report the total amount of tips reported for the year by indirectly tipped employees, such as busboys and cooks.

Line 4b—Total tips reported by directly tipped employees.—Write the total amount of tips reported for the year by directly tipped employees, such as waiters and waitresses.

Line 4c—Total tips reported.—Add lines 4a and 4b.

Caution: *Do not include tips received by employees in December 1987 but not reported until January 1988. However, include tips received by employees in December 1988 but not reported until January 1989.*

Line 5—Gross receipts from food and beverage operations (other than nonallocable receipts).—Report the total gross receipts from the provision of food or beverages for this establishment for the year. Gross receipts include all receipts (other than receipts for carryout sales or sales with an added service charge of 10% or more) from cash sales, charge receipts, charges to a hotel room (excluding tips charged to the hotel room if the employer's accounting procedures allow such tips to be segregated out), and the retail value of complimentary food or beverages served to customers as explained below. Do not include state or local taxes in gross receipts.

If you do not charge separately for providing food or beverages along with other goods or services (such as a package deal for food and lodging), make a good faith estimate of the gross receipts from the food or beverages. This estimate must reflect the cost to the employer for providing the food or beverage plus a reasonable profit factor.

Food or beverages served to customers without charge are complimentary if: (a) tipping for providing them is customary at the establishment, and (b) they are provided in connection with an activity that is engaged in for profit and whose receipts would not be included in line 5. For example, you would not have to include the retail value of complimentary hors d'oeuvres at your bar or a complimentary dessert served to a regular patron of your restaurant, because the receipts of the bar or restaurant would be included in line 5. You would not have to include the value of a fruit basket placed in a hotel room since, generally, tipping for it is not customary. However, drinks served without charge to customers in a gambling casino are complimentary. You would have to include the retail value of the complimentary drinks served to customers in a gambling casino because tipping is customary, the gambling casino is an activity engaged in for profit, and the gambling receipts of the casino are not included in line 5.

Do not include in gross receipts charged tips shown on charged sales unless you have reduced the cash sales amount because you have paid cash to tipped employees for tips they earned that were charged.

Line 6.—Multiply line 5 by 8% (.08) or the lower rate granted by the district director and enter this result on line 6.

If a lower percentage rate has been granted, write the rate on the line provided and attach a copy of the district director's determination letter.

You or a majority of the employees may request a lower rate (but not lower than 2%) by applying to the district director for the district in which the establishment is located. The burden of supplying sufficient information to allow the district director to estimate with reasonable accuracy the actual tip rate of the establishment rests with the petitioner. The employer's petition for a lower rate must clearly demonstrate that a rate less than 8% should apply and must include:

(a) The employer's name, address, and EIN;

(b) The establishment's name, address, and establishment number;

(c) A detailed description of the establishment which would help in determining the tip rate, such as type of restaurant, days and hours of operation, type of service including any self-service, the person (waiter or waitress, cashier, etc.) to whom the customer pays the check, whether the check is paid before or after the meal and whether alcohol is available;

(d) The past year's information shown on lines 1 through 6 of Form 8027, as well as total carryout sales; total charge sales; the percentage of sales for breakfast, lunch, and dinner; average dollar amount of a guest check; service charge, if any, added to the check; and the percentage of sales with a service charge;

(e) The type of clientele; and

(f) Copy of a representative menu for each meal.

The petition must contain the following statement and be signed by a responsible person who is duly authorized to make and sign a return, statement, or other document.

"Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this petition are true, correct, and complete."

Employers are required to attach copies of Form 8027 (if any) filed for the prior 3 years to their petition. Employers petitioning for multiple establishments or those who want to know their appeal rights should see Revenue Procedure 86-21, 1986-1 C.B. 560.

A majority of all the directly tipped employees must consent to an employee-originated petition. A majority of employees means more than half of all the directly tipped employees employed at the establishment(s) at the time the petition is filed. Procedures that employee groups must use are in regulations section 31.6053-3(h), **Pub. 531**, Reporting Income From Tips, and in the previously mentioned Revenue Procedure 86-21.

The district director will notify you when and for how long the reduced rate is effective.

Note: *If you have allocated tips using other than the calendar year, put an X on line 6 and enter the amount of allocated tips (if any) from your records on line 7. This may occur if you allocated tips based on the time period for which wages were paid or allocated on a quarterly basis.*

Line 7—Allocation of tips.—If 8% (or lower rate granted by the district director) of gross receipts (line 6) is more than the amount of tips reported by your employees (line 4c), you must allocate the difference to those employees. See the *Example* on page 2, especially step (6), for employees who have no reporting shortfall.

Check the box that describes the allocation method used. If you allocated based on hours worked by directly tipped employees, check box a. Substitute the number of hours worked by directly tipped employees for the gross receipts attributable to directly tipped employees in step (3) of the allocation formula on page 2. The allocation based on hours worked can only be used if the establishment employed fewer than the equivalent of 25 full-time employees during a pay period.

If you allocated based on gross receipts, check box b. Gross receipts attributable to a directly tipped employee are gross receipts from providing food or beverages to customers the employee served. One way to figure the gross receipts attributable to a directly tipped employee is to add the amounts of all checks with the employee's name or identification number (excluding from the total any checks for carryout sales or with a service charge added of 10% or more).

If you allocate based on a good faith agreement, check box c and attach a copy of the agreement to Form 8027. The conditions that a good faith agreement must meet are explained under the heading *Allocation of Tips*.

Line 8—Total number of directly tipped employees.—Write the total number of directly tipped employees who worked at this establishment during 1988. This number is the cumulative total of all directly tipped employees who worked at the establishment during the year. If you have a large turnover of directly tipped employees, this number may be large.

Do not use this number to determine if you must file Form 8027. The filing requirement is based on the number of **all** employees working at the establishment, not just the number of directly tipped employees.

* U.S. GPO: 1988 — 205-323